
(1885) 04 CAL CK 0001

Calcutta High Court

Case No: None

Mehter Ali and Others

APPELLANT

Vs

Queen-Empress

RESPONDENT

Date of Decision: April 29, 1885

Acts Referred:

- Penal Code, 1860 (IPC) - Section 330

Citation: (1885) ILR (Cal) 530

Hon'ble Judges: Prinsep, J; Pigot, J

Bench: Division Bench

Judgement

Prinsep, J.

As regards the two constables, the evidence leaves no doubt in our minds with regard to the correctness of the order of the Sessions Judge convicting them, u/s 330 of the Penal Code, of having caused hurt to certain persons, accused of murder of Mussamut Dhuri with the intention of extorting confessions from them.

2. As regards the other appellant, Mehter Ali, who occupied a somewhat higher position, being a head constable, it is argued that the evidence on the record does not amount to actual proof that he himself caused any such hurt to any of these persons. In support of this contention our attention has been drawn to some discrepancies in the evidence on the record, and especially on comparison of the evidence given by the principal witnesses at the trial with statements made at the various preliminary stages of the proceedings. These discrepancies, however, do not affect the general character of the evidence. The evidence is clear that false confessions were obtained from these persons who were arrested by the Police on suspicion of having murdered the woman Dhuri, and that these false confessions were the result of violence toward these persons openly caused by the two constables as well as of illegal detention in Police custody beyond the period prescribed by law. The appellant head constable was for some days in charge of the Police investigation, and the superior officer of these constables when openly using

violence to the prisoners in their custody, and he was throughout in the immediate neighbourhood of the places where this violence was used, and in constant company with the constables. We find ourselves, therefore, unable to come to any conclusion, but that he was not only cognizant of those assaults, but he was an accomplice in them, and in the illegal detention as the means by which he intended to obtain false confessions. We, therefore, think that there are no reasonable grounds for questioning the correctness of the conviction of the head constable Mehter Ali.

3. In sentencing the head constable to four months simple imprisonment, it would seem that the Sessions Judge had before him the fact that he had found that there was a superior officer also engaged in the investigation, and in his opinion more culpable than the head constable. We have not before us the case of the Sub-Inspector, and we desire to express no opinion regarding it; but even in the view taken by the Sessions Judge, we think that this sentence is altogether inadequate, and therefore, in dismissing the appeal of Mehter Ali, we direct, as a Court of Revision, that in lieu of the sentence passed by the Sessions Judge, he be sentenced to six months rigorous imprisonment calculated from the date of the sentence of the Sessions Court.

4. The appeals of the two constables are dismissed.